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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,042	03/27/2004	Richard J. Lech	17540	9528

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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, MS 641
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EXAMINER

LOPEZ, FRANK D

ART UNIT	PAPER NUMBER
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3745

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/811,042

Applicant(s)

LECH ET AL.

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on January 19, 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-4, 6, 8-12, 15, 16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-4, 6, 8-12, 15, 16, 18 and 20 is/are rejected.
- 7) ☐ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 19, 2007 has been entered.

Response to Amendment

Applicant's arguments filed January 19, 2007, have been fully considered but they are not deemed to be persuasive.

Applicant argues that the cited prior art does not show a reloader valve distributing a second flow from a second pump to the closed center valves or preventing the second flow to the closed center valves, when there is no demand. The examiner disagrees. Johnston clearly shows a reloader valve (40) distributing a second flow from a second pump (42) to valves (50) or preventing the second flow to the closed center valves (by dumping to reservoir), when there is no demand (sensed by lines 106, 108, column 3 line 26-41).

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 20 line 1 "supplied by solely by one or more flows" is confusing, since by is repeated twice, and since it would appear that the "one or more flows" should be either the "first or second flow", to refer back to claim 1 line 4 and/or 9, or somehow related to the first and/or second flow.

Claim Rejections - 35 USC § 103

Claims 1-4, 6, 8-12, 15, 16, 18 and 20 are rejected under 35 U.S.C. § 103 as being unpatentable over Lech (5,471,908) in view of Lech et al (5,413,452) and Johnston. Lech discloses a hydraulic system (e.g. fig 6) for a work vehicle comprising a priority valve (125) communicating with a first fixed displacement pump (53) and distributing flow to primary (connected to line 119) and secondary outlets, controlled by steering load and load of swing valve (via 131); with a steering valve (65) and a plurality of first valves (121, 123, 91), including a boom swing valve (73a) connected to the primary outlet and a plurality of open center valves (25a), including a loader bucket valve (60a) connected to the secondary outlet; wherein the priority valve is responsive to a load (via 131) of the plurality of first valves; a second fixed displacement pump (51) providing fluid to the plurality of first valves; and a reservoir (149) but does not disclose that the plurality of first valves are closed center valves; or that the first and second pumps are gear pumps; or that a reloader valve between the second pump and the closed center valves and responsive to a load signal on a load signal line coupled to the closed center valves, and responsive to some loads that control the priority valve and independent of other loads that control the priority valve, to couple the second pump to the closed center valves or to the reservoir, when there is no demand. Note that "reloader" is considered a name only and not considered to have any intrinsic limitation.

Lech et al teaches, for a hydraulic system for a work vehicle comprising a priority valve (86) communicating with a first fixed displacement pump (48) and distributing flow to primary (connected to line 88) and secondary outlets; with a plurality of first valves, including a steering valve (136) and a boom swing valve (74) connected to the primary outlet and a plurality of open center valves (51, 55, 59), including a loader bucket valve (51) connected to the secondary outlet; wherein the priority valve is responsive to a load (via 104) of the plurality of first valves; that the boom swing valve is a closed center valve.

Since Lech does not disclose whether the plurality of first valves are open or closed center valves, since Lech et al discloses the boom swing valve, which is one of the plurality of first valves, is a closed center valve, and since the plurality of first valves control actuators similar to the boom swing valve; it would have been obvious at the

time the invention was made to one having ordinary skill in the art to make the plurality of first valves of Lech closed center valve, as taught by Lech et al, as a matter of engineering expediency.

Johnston teaches, for a hydraulic system for a work vehicle comprising first and second fixed displacement pumps (44, 42) providing fluid to a plurality of first valves (50); that a reloader valve (48) is located between the second pump and the first valves and responsive to a load signal on a load signal line (via 106, 108) coupled to the first valves, to couple the second pump to the valves, or to a reservoir (67) when there is no demand, for the purpose of decreasing energy use (e.g. column 1 line 23-30).

Since Lech and Johnston are both from the same field of endeavor, the purpose disclosed by Johnston would have been recognized in the pertinent art of Lech. It would have been obvious at the time the invention was made to one having ordinary skill in the art to locate a reloader valve between the second pump and the closed center valves of Lech and responsive to a load signal on a load signal line coupled to the closed center valves, to couple the second pump to the closed center valves, or to the reservoir when there is no demand, as taught by Johnston, for the purpose of decreasing energy use. Note that since the reloader valve feeds all but the steering valve, it is controlled by the load of the swing valve (among other valves), but not the steering valve.

Official notice is taken that gear pumps are well known fixed displacement hydraulic pumps. It would have been obvious at the time the invention was made to one having ordinary skill in the art to make the fixed displacement pumps of Lech gear pumps, as a matter of engineering expediency.

Conclusion

Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Art Unit: 3745

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:15 AM -3:45 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is 571-273-8300. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

A handwritten signature in black ink, appearing to read 'F. Daniel Lopez', with a stylized flourish at the end.

F. Daniel Lopez
Primary Examiner
Art Unit 3745
March 26, 2007